

REMARKS

After entry of the present Amendment, claims 1 and 2-22 remain in the application. Claim 1 has been amended to include the substance of a portion of original dependent claim 2, and claim 2 has been amended by the present Amendment. Claims 3-6, 8, and 17-20 have been amended merely to address grammatical and dependency issues. Claim 21 has been amended to address dependency issues and to change a transitional term. As such, no new matter has been added through the present Amendment.

Claims 17-22 are objected to under 37 C.F.R. §1.75(c) as improperly dependent on multiple dependent claims. As indicated above, claims 17-21 have been amended for dependency and it is respectfully submitted that the objection of claims 17-22 under 37 C.F.R. §1.75(c) has been overcome in view of these amendments to claims 17-21.

Claims 1-3 and 14 stand rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 5,353,757 to Susa et al. Claims 4-13, 15, and 16 stand objected to as being dependent upon a rejected base claim and the Examiner indicated that claims 4-13, 15, and 16 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for noting the allowability of claims 4-13, 15, and 16. However, for the reasons set forth below, the Applicants respectfully assert that original dependent claim 2, now included in amended independent claim 1, is novel and non-obvious over Susa et al. and is, therefore, in condition for allowance.

With respect to the rejection under 35 U.S.C. §102(b) relying on Susa et al., the Applicants respectfully traverse the Examiner's arguments and submit that the claimed invention, as included in original dependent claim 2, the substance of which has now been incorporated into amended independent claim 1, is distinguishable over Susa et al. As the Examiner is well aware, to properly establish anticipation under 35 U.S.C. §102, the reference must teach each and every element of the rejected claim. See MPEP 2131. In the present case, Susa et al. fails to disclose surface distribution means which are able to allocate the allocatable heat section wholly or partly to either the high or low temperature fixed heat exchange sections, as currently claimed in amended claim 1.

Amended claim 1 now claims "the surface distribution means (40, 42, 44, 46) adapted to allocate said allocatable heat section (56) wholly or partly either to the high temperature fixed heat exchange section (52) or to the low temperature fixed heat exchange section (54)." (emphasis added). In other words, as made clear in paragraph [0066] of the present application, "[t]he intermediate heat exchange sections 56 may also be distributed between the sections 52 and 54. For example, three-quarters of the intermediate heat exchange section 56 may be allocated to the low temperature cooling system (section 54) and the remaining quarter to the high temperature cooling system (section 52). Naturally, this proportion may vary, either continuously from 0 to 100% or by increments, for example by 10% at a time."

To the contrary, Susa et al. merely discloses an allocatable heat section that is allocatable wholly to the high temperature fixed heat exchange section or wholly to the low

temperature fixed heat exchange section, i.e., Susa et al. does not disclose an allocatable heat section that is partially allocatable. As described by Susa et al. in column 12, lines 42-53 with reference to Figure 17, “the third radiator 5c is provided to be able to be connected in parallel with the first radiator 5a or the second radiator 5b. The third radiator 5c is connected in parallel with the first radiator 5a or the second radiator 5b in accordance with the switching state of the switching means 23’.” (emphasis added). Susa et al., therefore, does not disclose each and every element of independent claim 1, as amended, and cannot properly anticipate this claim nor render this claim obvious.

Thus, Applicants respectfully submit that claim 1, as amended, and claims 2-22, which depend directly or indirectly from the novel and non-obvious features of independent claim 1, as amended, are in condition for allowance and respectfully request such allowance.

Finally, the Examiner states that the references cited in the Search Report of the PCT will not be listed on any patent resulting from the present application because the references were not provided on a separate list in compliance with 37 C.F.R. §1.98(a)(1). The Applicants thank the Examiner for considering the references cited in the Search Report and an Information Disclosure Statement will be filed within the set period for reply to the present Office Action.

The proper fee for a one-month extension of time is submitted herewith. If any additional fees are necessary to respond to the outstanding Office Action, you are hereby authorized to charge such fees to Deposit Account No. 08-2789 in the name of Howard & Howard.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS

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Date

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